

Application No.: 10/772,703

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Docket No.: 297912002103

REMARKS

This application has been reviewed in view of the Office Action dated May 31, 2005. Claims 42-53 are pending in the application. Claim 42 has been amended, support for which amendment can be found on p. 7 of the application. Claims 44-45 have been amended to alter the dependencies thereof. Claims 47-53 have been added, support for which can be found in the originally filed application at, for example, pp. 2 and 14-18. Applicant notes that the definition for "radially pre-dilated" as recited in claim 50 is found on p. 15. Applicant submits that no new matter or issues have been introduced.

Claim 42 stands rejected under 35 USC §102(b) as being anticipated by Gore (USPN 3,962,153). Claims 43-45 stand rejected under 35 USC §103(a) as being unpatentable over Gore ('153) in view of Gore (USPN 4,187,390). Claim 46 stands rejected under 35 USC §103(a) as being unpatentable over Gore ('153) in view of Marin et al. (USPN 5,618,300). Applicant respectfully traverses these rejections.

The Examiner states in the Remarks section of the Office Action, to which this is a response, the following (underlining added for emphasis):

"Applicant addresses the position of the Office set forth in paragraph 2 of the previous Office Action mailed December 23, 2004 regarding the involvement of the claimed radial expansion ratio with an intermediate product, but ignores the characterization of the claimed radial expansion ratio by the Office as a method limitation (in paragraph 2 of the previous Office Action mailed December 23, 2004). The claimed radial expansion ratio is a method limitation because, as the language of claim 42 reads, the radial expansion ratio is the ratio of the diameter of the tube prior to "pre-dilat[ion]" (line 3 of claim 42) to the diameter of the "contracted" tube (line 5 of claim 42) after the tube is "expanded" and subsequently "contracted" (lines 4 and 5 of claim 42): the recitation that the radial expansion ratio of the tube is 1.0 does not contribute anything further to the recitation that the "contracted diameter" of the tube is "substantially the same as [the] original inner diameter," which is a portion of the method recitation "is sintered...ratio of 1.0" that has not been given patentable weight because the equivalent recitations that the "contracted diameter" of the tube is "substantially the same as [the] original inner diameter" and that the

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radial expansion ratio of the tube is 1.0 depends results from the sintering method step." (p. 3, Office Action dated March 31, 2005).

The underlined portions above appear to indicate that the Examiner is under the impression that the radial expansion ratio is a ratio of the different diameters of the tube recited in claim 42, which is not, in fact, the case. To clarify for the Examiner, Applicant has amended claim 42 to add the definition of the term "radial expansion ratio" as found in the specification on p. 7, lines 20-32. This limitation is structural in that it refers to a tube having a maximum inflation pressure equal to a burst inflation pressure (see p. 17, lines 36-41). Regarding the Examiner's comments on p. 4 of the Office Action, it should be clear now that the radial expansion ratio is, indeed, directed to a final product and not an intermediate one (i.e., it is a structural feature of the tube after it has been processed).

With respect to the prior art rejections, Applicant respectfully submits that the '153 patent does not anticipate claim 42 at least because the '153 patent does not describe or show a "tube exhibiting a radial expansion ratio of 1.0." Moreover, Applicants submit that the '153 patent teaches away from the claimed tube due to the disclosure of a tube that is cooled with cold air, following radial dilation and heating (col. 14, lines 49-60). This is quite different than the claimed tube that is "sintered to contract said tube from said expanded diameter to a contracted diameter that is substantially the same as said original inner diameter." Thus, the teaching of the '153 patent is to a tubing that is locked in its radially expanded configuration ("with the pressure maintained in the tubing so that no collapse took place, the temperature was raised to about 360°") in contradistinction to the claimed invention of a tube that is sintered to contract the tube from the expanded diameter to a contracted diameter, which contributes to the structural feature of the tube having a "radial expansion ratio of 1.0." Accordingly, claim 42 is patentable over the '153 patent for at least this reason.

Claims 43-46 are also patentable because these claims depend from claim 42. In addition, neither the '390 patent to Gore, nor the '300 patent to Marin et al. supply the missing disclosure of a "tube exhibiting a radial expansion ratio of 1.0" and therefore claims 43-46 are

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patentable over the proposed combinations. New claims 47-49 are also patentable because each depends from claim 42.

New claims 50-53 are patentable in view of the prior art of record in the case, at least because there is no disclosure in any of the cited references of a highly crystalline porous PTFE product comprising a radially pre-dilated tube having an original inner diameter and a dilated inner diameter greater than the original inner diameter, wherein the radial expansion ratio of the tube is about 1.0.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no.297912002103. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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